

NO. 22-1325, -1327

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

APPLE INC.,
Appellant,

v.

COREPHOTONICS, LTD.,
Cross-Appellant

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT APPLE INC.'S RESPONSE AND REPLY BRIEF**

**Appeals from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in No. IPR2020-00878.**

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Attorneys for Appellant Apple Inc.

TO THE HONORABLE COURT:

Under Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellant Apple Inc. (“Appellant”) files this first unopposed motion for extension of time and respectfully requests a thirty-day extension, until and including December 16, 2022, to file Appellant’s response and reply brief.

A. Current Deadline.

On October 7, 2022, Cross-Appellant Corephotonics, Ltd. filed its principal and response brief, thus making November 16, 2022, the deadline for Appellant’s response and reply brief. This is Appellant’s first request for an extension of time to file the reply/Cross-Appellee’s response brief and is the second request for an extension of time to file a brief in this appeal. Previously, Appellant was granted a thirty-day extension to file its opening brief.

B. Reason for Extension.

As outlined in more detail in the accompanying Declaration of Debra J. McComas, Appellant requests this extension due to numerous conflicting deadlines in other matters, including other matters pending before this Court.

C. No Opposition.

Cross-Appellant Corephotonics, Ltd. is not opposed to the requested extension, which is sought so that justice may be done in the disposition of this appeal and is not sought for purposes of delay.

PRAYER

For these reasons, Appellant respectfully requests that this unopposed motion for extension of time be granted and that the time for filing of Appellant's opening brief be extended from the current deadline of November 16, 2022, until and including December 16, 2022. Appellant further requests all such other relief to which it may be justly entitled.

Respectfully Submitted,

HAYNES AND BOONE, LLP

/s/ Debra J. McComas

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Attorneys for Appellant Apple Inc.

CERTIFICATE OF INTEREST

Case Number 22-1325, -1327

Short Case Caption Apple Inc. v. Corephotonics, Ltd.

Filing Party/Entity Apple Inc. / Appellant

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: November 8, 2022

Signature: /s/ Debra J. McComas

Name: Debra J. McComas

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.
<u> </u> None/Not Applicable	<u> X </u> None/Not Applicable	<u> X </u> None/Not Applicable
Apple Inc.		

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable

☐ Additional pages attached

Stephanie N. Sivinski (Haynes and Boone, LLP)	Jordan Maucotel (Haynes and Boone, LLP)	

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

☐ None/Not Applicable

☐ Additional pages attached

Corephotonics, Ltd. v. Apple Inc., 5:19-cv-04809 (N.D. Cal.)		

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable

☐ Additional pages attached

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CERTIFICATE OF CONFERENCE

I hereby certify that, on November 7-8, 2022, I conferred with counsel for the Cross-Appellant, who stated that they are not opposed to the relief sought herein.

/s/ Debra J. McComas

Debra J. McComas

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because:

■ this motion contains 251 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f) and Fed. Cir. R. 32(b)(2).

2. This motion complies with the typeface and type style requirements of Fed. R. App. P. 27(d)(1)(E) because:

■ this motion has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

/s/ Debra J. McComas

Debra J. McComas

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**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

APPLE INC.,
Appellant,

v.

COREPHOTONICS, LTD.,
Cross-Appellant

**DECLARATION OF DEBRA J. MCCOMAS IN SUPPORT OF
MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT APPLE INC.'S RESPONSE AND REPLY BRIEF**

I, Debra J. McComas, counsel for Appellant Apple Inc. (“Appellant”), declare as follows:

1. I am an attorney admitted to the bar of this Court. I am a partner at Haynes and Boone, LLP.

2. I, along with Andrew S. Ehmke, Michael S. Parsons, and Angela M. Oliver, am counsel of record for Appellant.

2. I submit this declaration pursuant to Federal Circuit Rule 26(b)(3) in support of the Motion for Extension of Time to File Appellant Apple Inc.’s Response and Reply Brief. I have personal knowledge of the facts set forth in this Declaration

and, if called as a witness, could and would testify competently to such facts under oath.

3. Good cause exists for a thirty-day extension of time to file Appellant's response and reply brief in this appeal.

4. Counsel of record for Appellant have been working diligently toward completion of Appellant's response and reply brief in this appeal, which is currently due on November 16, 2022. Despite these efforts, professional commitments on other matters have rendered it infeasible to provide the Court with the quality product to which it is entitled within the original time frame.

5. For instance, counsel of record have had and will have the following professional commitments during the relevant briefing period:

- Appellee's Brief in *Spine Holdings, LLC v. Orthofix Medical Inc.*, No. 22-1730 (Fed. Cir.) filed on November 2, 2022;
- Oral Argument in *Universal Electronics, Inc. v. Roku, Inc.*, No. 21-2128 (Fed. Cir.) on November 3, 2022;
- Oral Argument in *AlterWAN, Inc. v. Unified Patents, LLC*, No. 22-1029 on November 7, 2022;
- Appellee's Brief in *Carucel Investments LP v. Vidal*, No. 21-1731 on October 21, 2022; and
- Patent Owner's Preliminary Response in *Nearmap US, Inc. v. Eagle View Technologies, Inc.*, IPR2022-01090 (PTAB) filed on October 13, 2022.

6. In addition to the above deadlines, counsel with primary responsibility for writing the appeal briefs in this matter participated in and served as speakers at the UT Advanced Patent Law Institute on October 20-21, 2022.

7. Counsel for Appellant have conferred with counsel for Cross-Appellant, who does not oppose this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 8, 2022 in Dallas, Texas.

/s/ Debra J. McComas
Debra J. McComas